

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

MICHAEL F. JOHNINSON,  
ADC #069872

PLAINTIFF

4:06CV01636HLJ

MARK CULBERSON, et al.

DEFENDANTS

ORDER

This matter is before the Court on plaintiff's motion for sanctions from defendants (DE #146).

Defendants have filed a response to the motion (DE #147).

In support of his motion, plaintiff states this Court previously granted his motion to compel, ordering defendants to preserve certain requested surveillance and disciplinary hearing tapes (DE #58). Plaintiff further states despite numerous requests by his counsel to obtain such tapes from defendants, he has not received them. Plaintiff asks for sanctions from defendants due to their disregard of his requests.

In their response, defendants apologize to the plaintiff and his counsel for their failure to report to them concerning the availability of the tapes. Defendants state a copy of the disciplinary hearing tape is in the process of being forwarded to plaintiff's counsel, but that a copy of the requested surveillance tape is not, and has not ever, been available. Defendants ask the Court to deny plaintiff's motion, stating the failure to relay information was due to an oversight, and not made with any ill-will toward plaintiff.

In light of defendants' response to plaintiff's motion, the Court will deny the motion without prejudice. Accordingly,

IT IS, THEREFORE, ORDERED that plaintiff's motion for sanctions (DE #146) is hereby DENIED without prejudice.

DATED this 31st day of December, 2008.

*Henry L. Jones, Jr.*  
United States Magistrate Judge